



The Rural City of
**MURRAY
BRIDGE**

Bridge to Opportunity

NOTICE is hereby given that a **MEETING** of the **DEVELOPMENT ASSESSMENT PANEL** will be held on **MONDAY 21st NOVEMBER, 2011**, at **10:00 am** in the Mobilong Suite, Local Government Centre, 2 Seventh Street, Murray Bridge.

per Peter Bond
ACTING CHIEF EXECUTIVE OFFICER.

11/11/2011

AGENDA for the **DEVELOPMENT ASSESSMENT PANEL** 21st November, 2011

SITE INSPECTION

A site inspection of the development applications will be conducted prior to the meeting.

Please assemble in the carpark of the Local Government Centre at 8:30 am sharp.





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	Lots 12, 19, 21 & 22 Ferries McDonald Road, Monarto Paintball Skirmish Facility and Associated Carparking, toilet Facilities, Office and Kiosk, 3 metre high chain mesh fence and one sign	
	<u>APPLICANT:</u> Adelaide Hills Development Services (being represented by Peter Meline)	
	<u>REPRESENTORS:</u> Mr R & Mrs A Mitchell (requested to be heard) Mr K Thiele & Mr R Thiele (requested to be heard) Eastern Hills & Murray Plains Catchment Group (Mr S Coombe) Ms P Jacob (being represented by Steve Coombe) Dr R Westcott (requested not to be heard) Mr E Prelgauskas (requested not to be heard) Ms J Clift (requested not to be heard) Monarto & Districts Smallbore Rifle Club Inc (Monique White) SA Murray-Darling Basin Natural Resources Management Board (requested not to be heard)	
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71. APOLOGIES

72. CONFIRMATION OF MINUTES

That the minutes from the Development Assessment Panel meeting held on the 17th October, 2011, be taken as read and confirmed.

73. PRESIDING MEMBER'S COMMUNICATIONS

74. CONFLICT OF INTEREST DECLARATIONS

75. DEVELOPMENT ASSESSMENT MATTERS

CALL-OVER ITEM TO BE ADOPTED WITHOUT DISCUSSION

Members seeking individual discussion of the item should identify the item to the Presiding Member as it is called out. If not identified, the item will be taken as adopted by consensus in line with the recommendation contained within the report.

* Item 75.1 is the subject of verbal representation and in accordance with the Panel's Terms of Reference, must be individually considered and discussed.



ITEM NO 75.1 2011	Date of Panel Meeting : 21 st November,
Application Number	415/208/2011
Property Address	Lots 12, 19, 21 & 22 Ferris McDonald Road, Monarto
Proposal	Paintball Skirmish Facility and Associated Car Parking, Toilet Facilities, Office and Kiosk, 3m high chain mesh fence and one sign.
Applicant	Adelaide Hills Development Services
Zone/Policy Area/Precinct	Part Primary Production Zone/Part Light Industry Zone
Classification of Development	Merit
Public Notification Category	3
Representations	9 (4 to be heard)
Referrals	Internal referral to Council's Infrastructure and Environment Business Unit
Author	Simon Channon (Consultant – Nolan Rumsby Planners)
Appendices	A. Application documentation B. Native Vegetation Council advice C. SAPOL information sheets D. Representations E. Response to representations F. Concept Plan MuBr/3 G. Acoustic Report H. Traffic Management Report
Development Plan	9 December 2011
Recommendation	Refusal

Background

This application seeks consent for the change of use to, and construction of a paintball skirmish facility. This is the second application for the same use on the same site. The initial application, 415/571/2010, did not contain sufficient land for 'buffer' purposes. Subsequently, the applicant re-logged the application with allotments 12 and 21 included as part of the subject land.

The Subject Land

The subject land comprises four allotments, particularly defined as:

- Lot 12 in Deposited Plan 68037, Certificate of Title Volume 5949 Folio 653;
- Lot 19 in Filed Plan 1, Certificate of Title Volume 5202 Folio 352;
- Lot 21 in Filed Plan 1, Certificate of Title Volume 5202 Folio 354; and
- Lot 22 in Filed Plan 1, Certificate of Title Volume 5202 Folio 355.

Each allotment is within the Hundred of Monarto.

Lots 12 and 19 have a frontage of 166 metres and 550 metres respectively, to Ferris McDonald Road. Allotments 21 and 22 lie to the east of lots 19 and 21 and have a frontage to Rifle Road, which is unmade adjacent lots 21 and 22, but constructed further south to service the adjacent Monarto Shooting Complex.

Lot 12 is within Precinct 4 Freeway of the Monarto South Policy Area 2 within the Light Industry Zone. The remaining allotments lie within Policy Area 8 South West Area of the Primary Production Zone. The allotments are all under one ownership.

Each of the allotments contains portions of remnant native vegetation. The vegetation is currently protected by Heritage Agreement pursuant to the South Australian Heritage Act 1968. The Heritage Agreements seek to ensure the protection of the visual landscape, saplings and mature trees.

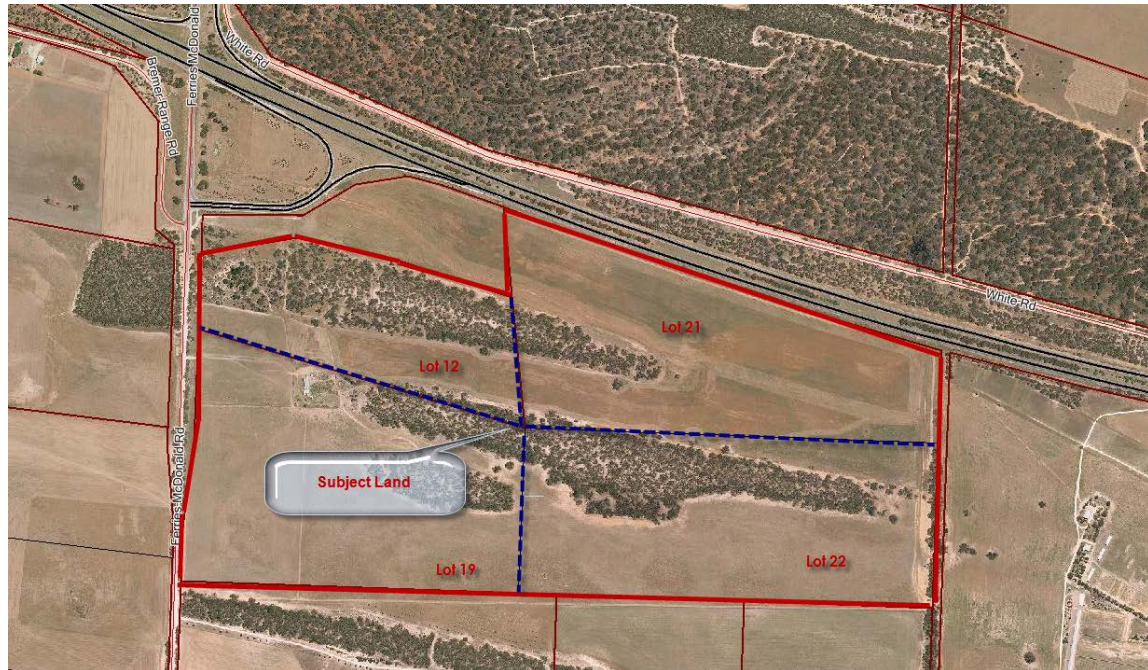


Figure 1 Site Plan (Exponare 2008)

Aerial site plan to show the location of the site

Recent activities conducted on the allotments include cattle grazing and cereal cropping. The allotments are generally fenced, and farmed, in two distinct areas, firstly, lots 12 and 21, and secondly lots 19 and 22, although it is unclear if fences follow the exact boundaries of the site. Lot 19 contains the only 'built form' including a series of sheds used for storage of farm equipment. Other farm machinery, scrap metal and waste material are also stored in the open on lot 19.

The primary activities proposed by the application are to occur on lot 19, with access via Ferries McDonald Road. This includes all access, car parking, amenities and playing areas. Lots 12, 21 and 22 will be used as 'buffer zones'. The nature of which is discussed in more detail later.

The Locality

The locality comprises an array of activities though is generally flat, open land with some vegetation. For the purposes of the assessment of this application, the locality is defined as being bound to the north by the South Eastern Freeway, which is a notable feature that bisects Monarto. East of the site is the Monarto Shooting Complex, which incorporates a series of ranges and is used by a number of clubs of various shooting disciplines. South of the site, is an existing horse breeding and training facility as well as two allotments put to cereal cropping use. West of the subject site is a series of allotments all used for general dryland cropping activities.

The locality is generally flat, with undulating portions of land throughout. There are a number of existing strands of remnant native vegetation on private allotments, as well as strands of mallee vegetation along Ferries McDonald Road.

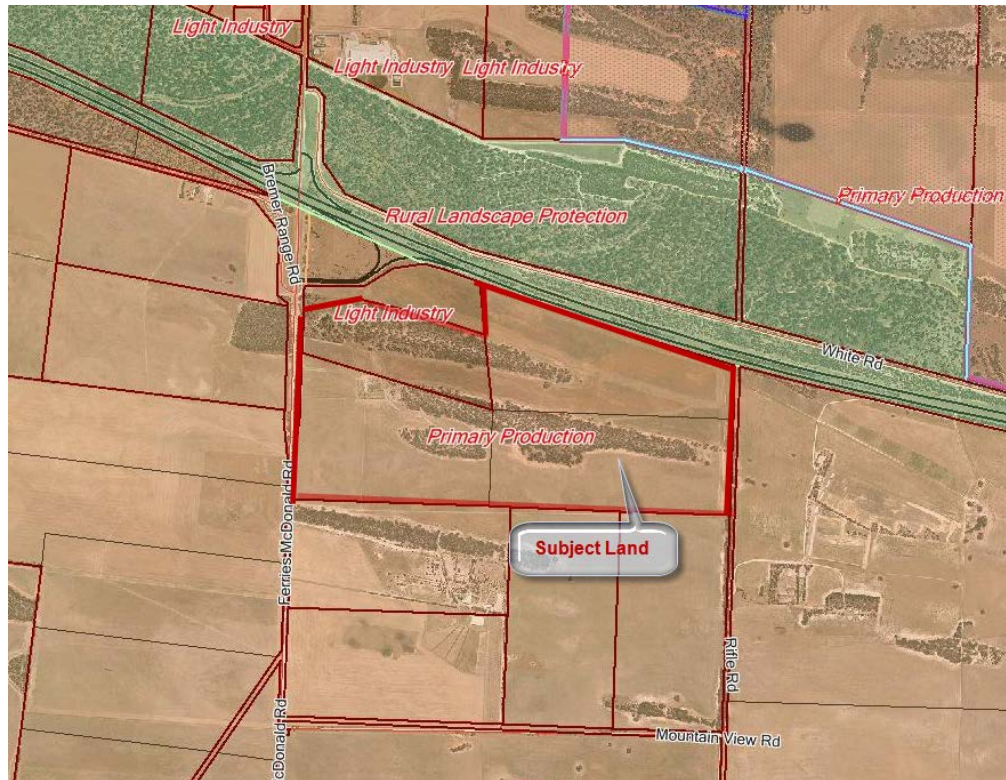


Figure 2 Locality Plan (Exponare 2008)
Aerial locality of the site including zoning.

Proposed Development

The application was lodged with Council on 3 June 2011.

The application seeks consent for a paintball skirmish facility, which includes the following physical features, all sited on lot 19:

- All weather sealed eight metre wide driveway. The driveway is existing it will be need to be widened to the eight metre width;
- 50 car parking spaces;
- Kiosk and office area, which are to make use of the existing sheds on site;
- One 1.2m x 2.2m sign with the words "Delta Force" located at the entrance to the facility
- New amenities building (and waste control system);
- 3 metre high chain fence located between the office, kiosk and car parking area and the playing fields;



- 5, themed paintball playing fields.

As per South Australian Police (SAPOL) guidelines, the paintball fields are required to contain a 200 metre buffer zone to ensure non-paintball activities are protected. The buffer zones are identified on the site plan provided by the applicant, and are located on each allotment. The playing fields are generally located within the north eastern portion of lot 19.

The proposal is detailed within the planning report submitted by the Applicant and on the site plan dated 18 October 2011 as included in **APPENDIX 75.1A**. The report raises a number of operation and management matters as follows:

- The proposal will operate seven days per week during daylight hours;
- There will be a maximum 15 employees on site at any one time;
- There will be a maximum 200 players at any one time;
- There will be two supervisors (employees) per 20 players at all times.

The Applicant has advised that the proposal includes revegetation within the strands of native vegetation, and that stock will be excluded from these areas to assist with the revegetation. The Applicant has stated that stock is to be excluded from lots 19 and 22, but will be allowed on lots 12 and 21.

The Applicant has submitted an application to the Native Vegetation Council (NVC) for the clearance of native vegetation. The NVC Advice of Understanding, included in **APPENDIX 75.1B**, indicates support to set aside some 10.6 hectares for revegetation and the clearance of the canopy area on lot 19, over an area of approximately one hectare. The NVC advice incorporates their approval for the clearance subject to a number of conditions.

5. Referrals

The application has been referred internally to Council's Infrastructure and Environment Business Unit. Comments were made in relation to the access and the vegetation that need to be removed. After discussions with officers from the business unit, it was agreed that the location of the proposed access was acceptable, and that sight lines and sight distances were appropriate. Although it may not be the best location in terms of roadside vegetation, it is appropriate for the Applicant to use the existing crossover/access point.

There were no statutory referrals required under the Development Act 1993. Contact was made with SAPOL to understand the process of licensing and registering paintball facilities. SAPOL provide Council with two information sheets that are normally given to paintball operators before they apply for approval with SAPOL, the information sheets are attached within **APPENDIX 75.1C**. Of note that is somewhat relevant in the assessing of this application, is the requirement for a 200 metre buffer between the edge of playing fields and adjoining properties. This is commented further in my assessment.

Public Notification

The proposal is neither a complying nor non-complying form of development and must be considered on its merits against the relevant provisions of the Development Plan. The Development Act 1993 provides that a Planning Authority is to have regard to the relevant provisions of the Development Plan in assessing development proposals.

In accordance with Section 38 (2) of the Development Act 1993, the proposal is not designated as a form of Category 1 or 2 development within the Development Plan or the Development Regulations 2008, as such the development application is assigned Category 3 for the purpose of public notification.

The application underwent public notification from 11 August 2011 to 25 August 2011. Nine representations were received.

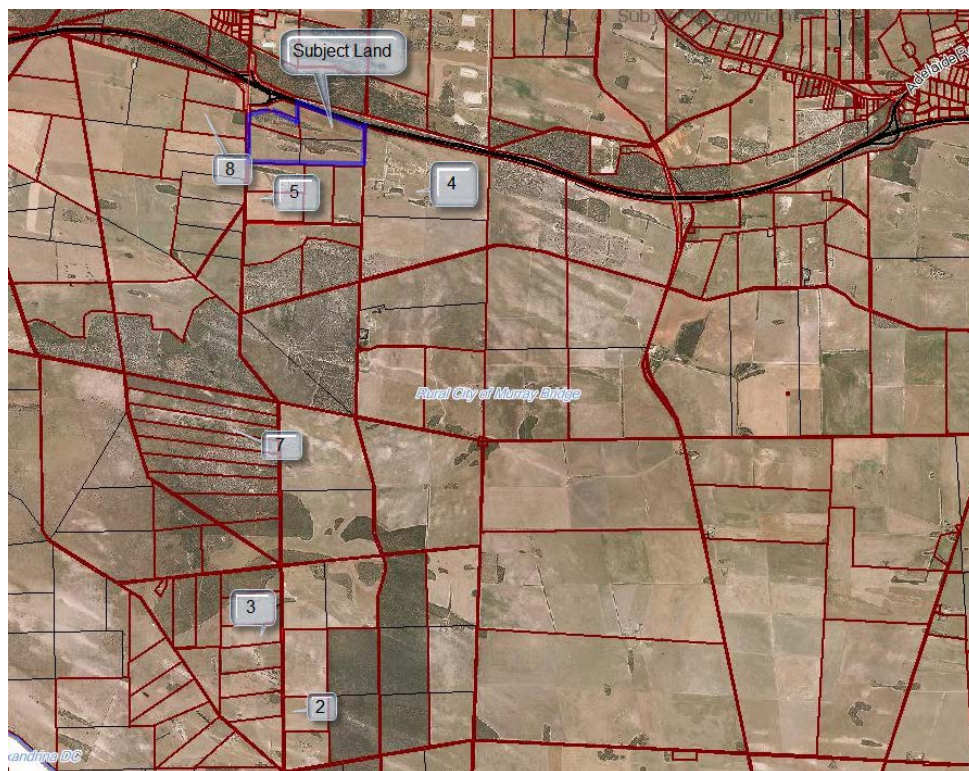


Figure 3 Representors Locality Plan (Exponare 2008)

Aerial indicating the location of representors in relation to the subject land.

1. SA Murray Darling Basin Natural Resource Management Board (not shown in Fig 3)
2. Ms J Clift *1
3. Ms P Jacob
4. Monarto and Districts Smallbore Rifle Club Inc.
5. Mr and Mrs A Mitchell *
6. Dr R Westcott (not shown in Fig 3)
7. Mr E Pregauskas
8. Mr K Thiele and Mr R Thiele* (properties extend along the boundary of the subject land)



9. Eastern Hills and Murray Plains Catchment Group Inc.*¹ (not shown in Fig 3)

- * indicates representor wishes to be heard
- *¹ indicates representor is being represented by Mr Steve Coombe

A summary of the concerns raised by the representors is given below, as well as a response from the applicant. Copies of the representations and the response to the representations are contained in **APPENDICES 75.1D & 75.1E** respectively.

Issues raised by the SA Murray Darling Basin Natural Resource Management Board

- The proposal does not comply with the zoning objectives for the allotments.
- The proposal provides an incomplete picture of the proposed development and its potential impacts on the desired character and environmental sensitivities of the zones.
- The proposal will result in degradation of the bushland protected by a heritage agreement.

Issues raised by Ms J Clift, local Monarto resident

- The proposal is a form on non-complying development.
- The proposed development does not meet the objectives of the Primary Production Zone or the objectives of the Tourism section of the General Section of the Development Plan.
- The development will have a destructive impact on the native vegetation and the potential to displace and harm native birds and animals.
- There are inconsistencies within the application and the previous application (subsequently withdrawn by the applicant), including the number of employees and visitors to the site.

Issues raised by Ms P Jacob, local Monarto resident

- The native vegetation on the sites are covered by heritage agreements and are part of an established natural corridor between Ferries McDonald Conservation Park to the Monarto Conservation Park.
- The effects of grazing on the be subject land is minimal compared to the damage that will result from repetitive foot traffic.
- The proposed development does not comply with the Primary Production Zone policies or the character of the area.
- Increase traffic will have a detrimental effect on wildlife in the area.

Issues raised by the Monarto and Districts Smallbore Rifle Club Inc., occupier of neighbouring land

- Concerned with the impact on the neighbouring Monarto Shooting Complex, including the differences in operation, i.e. recognised sporting discipline compared to paramilitary activity, SAPOL licenced range templates, licencing and training of users.



Issues raised by Mr R Mitchell and Mrs A Mitchell, adjoining land owner, immediately south of the proposed development.

- *The proposal is at variance with the provisions of the Primary Production Zone.*
- *The development will have impacts on the land owned by Mr and Mrs Mitchell which is currently used for the breeding, training and agistment of Lipizzaner breed horses.*
- *The application fails to address bushfire risk and contains no fire management plan or assessment by the Country Fire Service.*
- *The application does not clearly define the operating hours.*
- *The application does not contain sufficient information regarding the management and maintenance of the heritage listed native vegetation or the impacts on local fauna.*

Issues raised by Dr R Westcott, local Monarto resident

- *The applicant has had no regard to the presence/effects on wildlife within the development area. The development is likely to have significant impact on native animal habitat.*
- *The application fails to address the importance of retaining mallee bushland corridors intact with respect to the preservation of soils and the movement of sand dunes.*
- *The impact on native vegetation is understated. The loss of any vegetation is unacceptable. The conditions by the Native Vegetation Council are unlikely to be policed.*

Issues raised by Mr E Prelgauskas, local Monarto resident

- *The proposal is at variance with existing and desired character of the locality.*
- *The application indicates the proponents will undertake vegetation and land management but does not contain any details on how these will be managed.*
- *The development is contrary to tourism development in the locality.*
- *The development is at variance with the General Section provisions for vegetation and wildlife preservation*
- *The proposal will have noise and operation effects that are likely to affect adjoining land owners.*

Issues raised by Mr Kevin and Mr Robert Thiele, adjoining land owner

- *The paintball facility does not suit the site*
- *Concerns relating to noise and traffic impacts*

Issues raised by the Easetern Hills and Murray Plains Catchment Group inc.



- The proposal has no connection with any form of primary production land and is therefore at variance with the objectives of the Primary Production Zone.
- The proposal has no connection with any form of light industry land use and is therefore at variance with the objectives of the Light Industry Zone.
- The proposal is at variance with the tourism provisions of the Development Plan.
- The report by the Native Vegetation Council acknowledges the area contains high value native vegetation and this will be affected by the proposal. These areas should be protected in accordance with the heritage agreements over the land.
- There will be increased erosion of the sandy soils on which the vegetation is located; it will result in loss of linkages across the landscape and loss of vegetation.
- Given there are low level linkages between vegetation strands, any loss will have significant effects on local wildlife and their habitats.
- The proposal will undermine the provisions of the Development Plan by establishing a non-primary production land use within the Primary Production Zone.
- There are a number errors or inconsistencies within the applicants planning report.
- There are a number of comments relating to the report prepared by the Native Vegetation Council and the native vegetation on the sites.

Response from Peter Meline, Adelaide Hills Development Services (on behalf of the Applicant)

- The land will largely be used for grazing or buffer areas, only 16.8 hectares will be used for skirmish, kiosk area and amenities. A table identifying land use and area is also provided, in summary, approximately 168 000 m² is used for paintball activities, 480 000 m² is to be used for grazing and the remainder used for exclusively for conservation.
- The application is to be assessed 'on-merit' and is not considered to be non-complying.
- The application allows for the majority of land to be used for agricultural or native vegetation purposes.
- No activities will be undertaken in the Light Industry Zone, this land is to be used for buffer purposes only.
- The proposal is not tourism related and it is considered the tourism provisions are not applicable to this application
- The Native Vegetation Council is satisfied with the proposed land use provided there is a comparable environmental benefit.
- The proposal will result in an 'improvement' of visual amenity.



- The paintball 'markers' are made from vegetable derived food colourant, rather than a 'paint'. They are fully biodegradable.
- There is a substantial buffer of 700 metres proposed between the paintball facility and that of the Monarto Sporting Complex and the Monarto and Districts Smallbore Rifle Club.
- The kiosk and carpark will be located no closer than 400 metres from the south boundary adjoining the horse stud property. An acoustic report was submitted which indicates that noise levels from the facility will comply with Environment Protection Authority day time noise limits.
- The operating hours are consistent with other paintball operations.

A number of comments were made in submissions that are not planning related. These include matters of property value and terrorism links. These matters are not considered in further detail.

The above issues have been considered in the assessment section of this report.

Development Plan Provisions

The subject land involves four allotments. Three allotments are situated within South West Policy Area 8 of the Primary Production Zone while the remaining allotment is situated within Precinct 4 Freeway of the Monarto South Policy Area 2 within the Light Industry Zone.

The land within the Light Industry Zone is identified on Concept Plan Map MuBr/3 of the Development Plan, and is included in **APPENDIX 75.1F**. The concept plan shows native vegetation, a proposed 10 metre wide landscaped buffer along Ferries McDonald Road and a portion of a 'stormwater management facility'. The intent of this particular Light Industry Zone Policy Area is to establish a retail fuel complex.

The following provisions of the Development Plan are relevant to the assessment of this proposal.

Advertisements	Objectives: 1, 2, 3 Principles: 1, 2, 4, 5, 14, 15
Design and Appearance	Objectives: 1 Principles: 2, 3
Hazards	Objectives: 1, 2, 5 Principles: 1, 2, 8, 9, 10, 16
Interface Between Land Uses	Objectives: 1, 2 Principles: 1, 2, 5, 6, 7, 10
Natural Resources	Objectives: 1, 6, 8, 9, 10, 11, 12, 13 Principles: 1, 2, 26, 27, 28, 29, 30, 31, 32, 33, 34, 37, 38, 39
Open Space and Recreation	Objectives: 1, 2, 3 Principles: 14, 15
Orderly and Sustainable	Objectives: 1, 3, 4, Principles: 1, 3, 9



Siting and Visibility	Objectives: 1 Principles: 1, 2, 5, 6, 7, 8
Tourism Development	Objectives: 1, 2, 3, 5 Principles: 1, 2, 3, 9, 10, 11, 13, 14, 17
Transportation and Access	Objectives: 2 Principles: 8, 22, 23, 28, 29, 30, 31, 32, 36, 38
Primary Production Zone:	Objectives: 1, 2, 3, 4 Principles: 1, 2,
South West Policy Area 8:	Objectives: 1, 3, 4 Principles: 1, 2
Light Industry Zone:	Objectives: 1 Principles: 1, 2
Monarto South Policy Area 2:	Objectives: 1, 2, 3, 4 Principles: 1, 2, 4, 15, 16, 17, 18, 19

The following matters are considered to be pertinent in the assessment of this application:

- The land and the land use intent;
- Natural resource management
- open space, recreation and tourism;
- access and car parking;
- interface with adjoining land;
- rural character and visual impacts; and
- bushfire risk

These will be addressed in the context of this report.

The land and the land use intent

Primary Production Zone

Objectives

- 1 Economically productive, efficient and environmentally sustainable primary production.**
- 2 Allotments of a size and configuration that promote the efficient use of land for primary production.**
- 3 Protection of primary production from encroachment by incompatible land uses and protection of scenic qualities of rural landscapes.**
- 4 Development that contributes to the desired character of the zone.**

The objectives of the Primary Production Zone are clear in their intent. The zone seeks to ensure that the land is used for primary production purposes in an environmentally sustainable, efficient manner which is able to operate with minimal adverse impacts on the environment.



The zone, through the objectives and principles seeks to guide types of development that result in particular outcomes that relate to matters of built form and the operation or management of certain types of development.

Additionally, the subject land sits within the South West Policy Area 8, of which the intent is to provide:

- 1 An area accommodating a wide range of general farming, intensive animal keeping and other primary production activities on large land holdings in an open rural landscape.**
- 4 Development that contributes to the desired character of the policy area.**

The Policy Area contains a desired character statement, promotes

"It is desirable that future development retains the existing allotment pattern and protects the environmental sensitivities and existing agricultural uses, whilst providing for traditional general farming activities..."

Land uses envisaged within the South West Policy Area include farming and intensive animal keeping.

As outlined earlier, the locality consists of a variety of land uses. South of the site, an established horse breeding and training facility is being operated. East of the site, the Monarto Sporting Complex, comprising a number of 'gun' related disciplines operates on shared use arrangement where sheep are grazed during periods of non-use, and removed from the site during the operation, ensuring that the land retains some form of primary production operation.

The subject site comprises a relatively flat landscape with portions of the site covered with remnant native mallee-broombrush vegetation. The allotments have recently, and likely historically, been used for either production of cereal crops, or the grazing stock, including sheep and or cattle. Although cropping and grazing activities can affect the native vegetation, they have been activities undertaken on the site for some time. Accordingly, the land in its current form is able to, and does, assume the primary objectives of the zone.

The proposed development involves utilising one parcel of land for the whole of the paintball activities (except separation distances), this includes access arrangements, vehicle parking, office and kiosk area and the paintball activities proper. The paintball activities will take place within the native vegetation on site and will be roped off on the eastern extent to prevent activity on the adjacent parcel of land. The paintball fields will be fenced to the north along the boundaries of the site.

Lots 12, 21 and 22 will contain no paintball activity but comprise part of this application for suitable 'buffering' purposes to ensure their safe operation. The Applicant has indicated that lot 22 will be fenced and revegetated. This is also considered by the Native Vegetation Council as providing the required 'significant environmental benefit'. The Applicant has indicated that lots 12 and 21 will be able to be continually grazed. However, the majority of lot 12 and a portion of lot 21 will be required as a buffer around the paintball fields, and it is considered that grazing uses are not entirely compatible with the adjacent paintball fields, as identified on the proposed plans.

Further discussion of lot 12, which is located in the Light Industry Zone, is provided in the following section



Light Industry Zone

Objectives

- 1 A zone accommodating a range of light industrial, storage and warehouse land uses.

Monarto South Policy Area 2

Objectives

- 1 A policy area developed with a diversity of activities including distribution facilities, warehousing, service industries, rural industries, rural processing, horticulture, farming, bulk handling, storage and transportation of farm commodities and a fuel retail complex.
- 3 Creation of a landscaped environment to the south of the South Eastern Freeway within which service facilities are located and which are visible and readily accessible from the South Eastern Freeway.

As recognised earlier, one allotment, lot 12 sits within Precinct 4 Freeway of the Monarto South Policy Area 2 within the Light Industry Zone. This allotment is one of two within the precinct. The precinct is adjacent the South Eastern Freeway and it is envisaged that it will be developed as follows:

- 15 **Development should primarily accommodate a retail fuel complex that includes a petrol filling station and associated convenience store, take away restaurant/shop and accommodation, to meet the needs of the travelling public and surrounding community.**

Future development of lot 12, in such a form as desired, would be prejudiced by the use of the allotment for separation distance purposes. Consequentially, the proposed land use removes any likelihood of allowing future development of the allotment for its intended purpose.

The ability of lots 12 and 21 to continue to operate with primary production land uses is seriously limited. Once the buffer areas are used for those purposes, they cannot be used for any other use, including grazing or cropping.

The proposed development, in removing primary production land uses from the Primary Production Zone, and the prejudicing of the future development of the Light Industry Zone is at variance with the core objectives of the two subject zones.

Natural Resource Management

Natural Resources

Objectives

1. Retention, protection and restoration of the natural resources and environment.
6. Development sited and designed to:
 - (a) protect natural ecological systems



The application proposes to undertake activity within the remnant native vegetation on site. Further, there are portions of native vegetation that are proposed to be conserved and reinstated. The Development Plan is clear in its direction to seek the retention, protection and restoration of the natural resources and the environment.

Natural Resources

Objectives

8. Native flora, fauna and ecosystems protected, retained, conserved and restored.
10. Restoration, expansion and linking of existing native vegetation to facilitate habitat corridors for ease of movement of fauna.

Principles of Development Control

26. Development should retain existing areas of native vegetation and where possible contribute to revegetation using locally indigenous plant species.
27. Development should be designed and sited to minimise the loss and disturbance of native flora and fauna.
29. Native vegetation should be conserved and its conservation value and function not compromised by development if the native vegetation does any of the following:
 - (a) provides an important habitat for wildlife or shade and shelter for livestock
 - (b) has a high plant species diversity or includes rare, vulnerable or endangered plant species or plant associations and communities
 - (c) provides an important seed bank for locally indigenous vegetation
 - (d) has high amenity value and/or significantly contributes to the landscape quality of an area, including the screening of buildings and unsightly views
 - (e) has high value as a remnant of vegetation associations characteristic of a district or region prior to extensive clearance for agriculture
 - (f) is growing in, or is characteristically associated with a wetland environment.

Natural Resources

Objectives

11. Protection of the physical, chemical and biological quality of soil resources.
12. Protection of areas prone to erosion or other land degradation processes from inappropriate development.

Principles of Development Control

1. Development should be undertaken with minimum impact on the natural environment, including air and water quality, land, soil, biodiversity, and scenically attractive areas.
2. Development should ensure that South Australia's natural assets, such as biodiversity, water and soil, are protected and enhanced.



- (a) is growing in, or is characteristically associated with a wetland environment.**

The proposed development is to be undertaken on sites that are encumbered by a heritage agreement pursuant to the South Australian Heritage Act 1978. The heritage agreements recognise the aesthetic value of the vegetation and need to protect the saplings and the mature trees on each of the sites.

The Applicant has approached, and has the approval of the Native Vegetation Council (NVC) to use the native vegetation on lot 19 for paintball activity purposes. The approval is backed by the Applicants intention to set aside allotment 21 for further revegetation and conservation purposes. The revegetation and the management of the native vegetation area is considered by the NVC to be the 'significant environmental benefit' and justification for the approval of the activity on allotment 19 subject to conditions.

The native vegetation on allotments 12 and 21 will remain untouched being outside of both the playing areas and separation buffers.

The report provided by the NVC indicates that the area of native vegetation has an intact over storey, with lesser quality mid and ground layers which are heavily grazed by cattle. Further, the NVC also state that the removing the grazing pressure is likely to have a positive impact and that the level of disturbance created by the paintball activities will be less than that that currently exists from grazing.

Although the proposed activity is to be undertaken within tracts of native vegetation. The impacts on the vegetation within those tracts are able to be contained. The conservation and enhancement of the native vegetation on allotment 22, with like for like tree species, will balance the loss of vegetation on lot 19 through the proliferation of tracks and paintball skirmish activities.

Open Space, Recreation and Tourism

Open Space and Recreation

Objectives

3. **A wide range of settings for active and passive recreational opportunities.**

Principles of Development Control

14. **Development of recreational activities in areas not zoned for that purpose should be compatible with surrounding activities.**
- 15 **Recreation facilities development should be sited and designed to minimise negative impacts on the amenity of the locality.**

Tourism Development

Objectives

- 1 **Environmentally sustainable and innovative tourism development.**
- 2 **Tourism development that assists in the conservation, interpretation and public appreciation of significant natural and cultural features including State or local heritage places.**



- 3 **Tourism development that sustains or enhances the local character, visual amenity and appeal of the area.**
- 4 **Tourism development that protects areas of exceptional natural value, allows for appropriate levels of visitation, and demonstrates an environmental analysis and design response which enhances environmental values.**
- 5 **Tourism development in rural areas that does not adversely affect the use of agricultural land for primary production.**

Principles of Development Control

- 1 **Tourism development should have a functional or locational link with its natural, cultural or historical setting.**
- 2 **Tourism development and any associated activities should not damage or degrade any significant natural and cultural features.**
- 10 **Tourism developments in rural areas should be sited and designed to minimise impacts and have a functional or locational link with either of the following:**
 - (a) **the surrounding agricultural production or processing**
 - (b) **the natural, cultural or historical setting of the area.**

A number of representations raised concerns about the proposal and its variance with the provisions of the tourism section of Council's Development. Whilst the proposal is likely not 'tourism' in its pure sense, the paintball facility will be used, in the main, by people from outside the Council area. The Applicant was asked to address these concerns, but has not done so, indicating that the proposal is not tourism.

Notwithstanding the above, I consider some of the provisions of the Tourism Development Section, and the Open Space and Recreation Section of Council's Development are relevant in the assessment of this application.

Regardless of whether or not the application relates to 'tourism', the Development Plan directs 'recreation' type development to conform with similar provisions. This is best described by principles 14 and 15 of the Open Space and Recreation provisions, which seeks to guide development outcomes that have firstly, minimal impact on the surrounding locality, and secondly, minimal adverse impact on the environment.

It is not easy to determine the impact that the proposal will have on the environment. Advice is provided from the Native Vegetation Council, that the clearance (or use) of native vegetation is unlikely to have significant consequence provided that an offset is provided. Conversely, the representation by the SA Murray Darling Basin Natural Resource Management Board, a referral agency in some instances, has highlighted the potential risk of erosion and degradation of land by the paintball activity.

The above policies largely reinforce a cross section of the General Section and Zone provisions which relate specifically to uses appropriate to their locality that are managed in a way that does not adversely affect the locality within which they are situated, or the environment.

Interface with adjoining land

The following provisions are most pertinent in the assessment under this subheading:



Interface between land uses

Objectives

1. Development located and designed to prevent adverse impact and conflict between land uses.
2. Protect community health and amenity and support the operation of all desired land uses.

Principles

1. Development should not detrimentally affect the amenity of the locality or cause unreasonable interference through any of the following:
 - (a) the emission of effluent, odour, smoke, fumes, dust or other airborne pollutants
 - (b) noise
 - (c) vibration
 - (g) hours of operation
 - (h) traffic impacts.
2. Development should be sited and designed to minimise negative impact on existing and potential future land uses considered appropriate in the locality.
5. Sensitive uses likely to conflict with the continuation of lawfully existing developments and land uses considered appropriate for the zone should not be developed or should be designed to minimise negative impacts.
6. Development should be sited, designed and constructed to minimise negative impacts of noise and to avoid unreasonable interference.
7. Development should be consistent with the relevant provisions in the current *Environment Protection (Noise) Policy*.

Orderly and Sustainable Development

Objectives

3. Development that does not jeopardise the continuance of adjoining authorised land uses.

As outlined earlier in this report, the locality consists of a broad range of land uses, including cereal cropping, horse breeding and agistment and the Monarto Sporting Complex.

The proposed development involves activities that may impact on the locality by way of noise, hours of operation, increased traffic, dust or by way of the paintballs themselves.

SAPOL, who have not reviewed the application, advised Council that generally, paintball operations require separation distances from adjoining land uses in the order of 200 metres. The Applicant has been able to supply a 200 metre buffer to each boundary adjoining the subject land. SAPOL require the full support, and likely development approval, prior to assessing any compliance under the Firearms Act.



The Applicant has submitted an acoustic report to determine possible noise impacts to the nearest receptor; that being the house to the south of the site. The report, prepared by Marshall Day Acoustics, provided in **APPENDIX 75.1G**, assesses the proposal against the EPA Environment Protection (Noise) policy 2007. The Policy provides for allowable noise levels during both day and night time periods. For either rural or light industries, the average indicative noise level is 57 dBA, the policy states that the predicted noise level of a new development should not exceed the indicative noise levels less 5 dBA, as such the maximum permissible noise level is 52 dBA.

The acoustic report considers both noise from paintball markers and noise from player activity. The report identifies that the predicted noise levels are likely to be in the order of 43 dBA at the southern boundary of the site, and 36 dBA at the nearest receptor, being the dwelling on the site to the south. The report concludes that the noise levels will be similar to the present ambient noise levels.

The hours of operation are proposed to be daylight hours. It is suggested that if the application is to be supported, appropriate hours of operation be conditioned to ensure that activity is only undertaken in daylight hours.

Access and car parking

Transportation and access

Objective

2. **Development that:**
 - (a) **provides safe and efficient movement for all motorised and non-motorised transport modes**
 - (b) **ensures access for vehicles including emergency services, public infrastructure maintenance and commercial vehicles**
 - (c) **provides off street parking**
 - (d) **is appropriately located so that it supports and makes best use of existing transport facilities and networks.**

Principles

22. **Development should have direct access from an all weather public road.**
- 23 **Development should be provided with safe and convenient access which:**
 - (a) **avoids unreasonable interference with the flow of traffic on adjoining roads**
 - (b) **accommodates the type and volume of traffic likely to be generated by the development or land use and minimises induced traffic through over-provision**
 - (c) **is sited and designed to minimise any adverse impacts on the occupants of and visitors to neighbouring properties.**
28. **Driveways, access tracks and parking areas should be designed and constructed to:**
 - (a) **follow the natural contours of the land**
 - (b) **minimise excavation and/or fill**
 - (c) **minimise the potential for erosion from runoff**
 - (d) **avoid the removal of existing vegetation**



- (e) be consistent with *Australian Standard AS 2890 Parking facilities*.
30. Development should provide off-street vehicle parking and specifically marked disabled car parking places to meet anticipated demand in accordance with *MuBr/2 - Off Street Vehicle Parking Requirements*.
31. Development should be consistent with *Australian Standard AS 2890 Parking facilities*.
36. Parking areas should be sealed or paved in order to minimise dust and mud nuisance.

The paintball facility is located adjacent Ferries McDonald Road, some 500-600 metres from the South Eastern Freeway. The Applicant has submitted a traffic report, which was prepared by Phil Weaver (Phil Weaver and Associates), refer to **APPENDIX H**.

The application proposes that access will be via the existing access point currently serving the property. Mr Weaver has indicated that the safe intersection sight distances are appropriate being at least 150 metres north and south of the driveway.

A car parking survey at an existing paintball facility has been undertaken and is used for a bench mark to determine appropriate car parking rates. The site, in New South Wales is larger and is used by more visitors. Mr Weaver's report identifies that the typical parking demand was the equivalent of one car park per four players. Mr Weaver is satisfied that the proposal's 50 car parking spaces is sufficient to cater for the demand for this site.

The Development Plan is silent on the car parking requirements for this type of development. Mr Weaver's comments in relation to parking demand and note that if required, the Applicant could construct a less formal overflow parking area that could be used if necessary. The car parking area can be designed to meet Australian Standard AS 2890 for off street parking facilities.

The proposed access by way of eight metre wide crushed rubble surface has the potential to generate dust with the volume of traffic movement anticipated. Management of this issue would need to be addressed if the panel were to support the application.

Rural character and visual interface

Siting and Visibility

Objectives

1. Protection of scenically attractive areas, particularly natural and rural landscapes

Principles

1. Development should be sited and designed to minimise its visual impact on:
 - (a) the natural, rural or heritage character of the area
 - (b) areas of high visual or scenic value, particularly rural areas
 - (c) views from the River Murray, public reserves, tourist routes and walking trails.



The existing site contains a number of sheds that are used to store machinery and equipment currently used for the farming operation of the site. The proposed development will utilise the buildings on site for administration and kiosk functions. The area, also referred to as the 'base camp' area is to be screened by three metre high chain link fencing, which is to extend to the area of the car park to provide suitable buffering and the safety of visitors not on the playing fields. To ensure the safety of users, fencing is often covered with shade cloth to diffuse ill-directed paintballs.

Additionally, the proposal includes a series of props that are used to heighten the excitement of the skirmish games. Such props include a black hawk helicopter, double deck bus, phone booth, bridges and a pyramid. The pyramid, by far the largest prop, has a height of six metres and may breach the height of the canopy. The props will be positioned in the native vegetation and are unlikely to be visible when viewed from the adjacent roadway, except perhaps for the pyramid. It is likely that one field will be visible, and that is the speedball site, which is a small open field with obstacles such as barrels, and is used for short games.

The proposed development will introduce visual elements not consistent with the prevailing rural character of the site. The proposal is unlikely to have any visual impact when viewed from the South Eastern Freeway, and that the visual impact will predominately be from Ferries McDonald Road. The policies above, seek to ensure that the aesthetic quality of landscapes is not affected by development. The Monarto area, including Ferries McDonald Road is a visually attractive area with links through to two conservation parks and a number of patches of remnant native vegetation, similar to those on the subject sites.

The introduction of three metre high chain link fences, most likely screened with shade cloth, as well as barrels and other props that are visible, are not consistent with, and will detract from the amenity of the locality. There may be appropriate measures to reduce the visual impacts of the proposal; however the application does not propose any such measures.

Bushfire Risk

Hazards

Objectives

- 1. Maintenance of the natural environment and systems by limiting development in areas susceptible to natural hazard risk.**
- 2. Development located away from areas that are vulnerable to, and cannot be adequately and effectively**
- 5. Development located to minimise the threat and impact of bushfires on life and property.**

Principles

- 1. Development should be excluded from areas that are vulnerable to, and cannot be adequately and effectively protected from, the risk of hazards.**
- 8. The following bushfire protection principles of development control apply to development of land identified as General, Medium and High bushfire risk areas as shown on the *Bushfire Protection Area BPA Maps - Bushfire Risk*.**

The proposed development will operate year round. The proposal would yield such a fire risk so to not be acceptable. It should be noted that the subject site is relatively flat and with good access to Ferries McDonald Road and the South Eastern Freeway.

Should the application be supported, it is suggested that an advisory note be attached to the decision advising the Applicant to consult with the CFS to ensure that appropriate measures are in place to minimise bushfire risk and ensure the safety of visitors.

Assessment Summary

The application has been assessed against the provisions of the Murray Bridge Development Plan consolidated 9 December 2011.

When assessed against the relevant provisions of the Development Plan and having regard to the context of the locality, the nature of the proposal and the representations received, the proposed land use is not considered to be appropriate in the context of the operation of primary production land within the Primary Production and the Light Industry Zones.

The provisions of the Primary Industry Zone seek to ensure that the land within the zone can be put to such appropriate uses, that being for primary production. This proposal involves removing primary production uses from two adjoining allotments and seriously limits the ability of the remaining two allotments (on the subject land) to continue to be used in such fashion. In my view, either the grazing or cropping of lots 12 and 21 is not compatible with the paintball skirmishing activities that will occur adjacent the boundary of lot 19.

Additionally, any future use of lot 12 for its intended light industrial purposes would be jeopardised if the allotment were used only for buffering purposes of the paintball activity proposed on the adjacent lot 19.

The application has received a number of representations that are concerned with the use of the land, the protection and conservation of remnant native vegetation as well as operational issues such as noise, pollution and traffic management.

If managed correctly the operation of a paintball facility could mitigate or address issues that relate to noise, pollution (including projectiles) and traffic management, such they would not cause unreasonable impacts on the locality.

Clare Motorcycle Club v Clare and Gilbert Valleys Council & Anor ERDC No. 154 of 2010 decision of October 2011 identifies that the removal of land for a use that is not intended within the policies and objectives for the Zone in which it is located will have minimal impact if the subject land has not been used for an appropriate use for a period of time and is unlikely to be suitable for such a use. For example the Court determined that the removal of land not presently used for agriculture and viticulture and which showed no evidence of being put to any sustained use within a Rural (Horticulture) Zone was not contrary to the Objectives of the Zone which sought the encouragement of rural production, the retention and expansion of vine and other agricultural production in an environmentally sustainable manner. Conversely this raises the argument that removing land from a use which has been identified with the Zone provisions and for which it has been used, and is still capable of being used, is considered contrary to the Objectives and Principles of that Zone

Given the proposed development removes land that is used in the manner in which it is intended, and introduces a use that is not intended, the application is at variance with the provisions of *the Development and does not contain sufficient merit to warrant support.*



RECOMMENDATION:

Following a detailed assessment of the proposal against the provisions of the Rural City of Murray Bridge Development Plan, consideration of referrals, advice and representations:

- A. That pursuant to Section 35 (2) of the Development Act, 1993, the proposal is not considered to be seriously at variance, but is sufficiently at variance with the relevant provisions of the Murray Bridge Development Plan.
- B. That pursuant to Section 33 of the Development Act, 1993, Development Application Number 415/208/11 be REFUSED Development Plan Consent for the following reasons:

The application is considered contrary to the following Objectives and Principles of the Rural City of Murray Bridge Development Plan (Consolidated 9 December 2011):

Primary Production Zone

Objectives

- 1 Economically productive, efficient and environmentally sustainable primary production.
- 2 Allotments of a size and configuration that promote the efficient use of land for primary production.
- 3 Protection of primary production from encroachment by incompatible land uses and protection of scenic qualities of rural landscapes.

South West Policy Area 8

Objectives

- 2 An area accommodating a wide range of general farming, intensive animal keeping and other primary production activities on large land holdings in an open rural landscape.
- 4 Development that contributes to the desired character of the policy area.

Light Industry Zone

Objectives

- 1 A zone accommodating a range of light industrial, storage and warehouse land uses.

Monarto South Policy Area 2

Objectives

- 1 A policy area developed with a diversity of activities including distribution facilities, warehousing, service industries, rural industries, rural processing, horticulture, farming, bulk handling, storage and transportation of farm commodities and a fuel retail complex.



3. *Creation of a landscaped environment to the south of the South Eastern Freeway within which service facilities are located and which are visible and readily accessible from the South Eastern Freeway.*

Orderly and Sustainable Development

Objectives

3. *Development that does not jeopardise the continuance of adjoining authorised land uses.*

Principles

- 1 *Development should not prejudice the development of a zone for its intended purpose.*
- 2 *Land outside of townships and settlements should primarily be used for primary production and conservation purposes.*



ITEM No: 75.2	Date of Panel Meeting: 21 November 2011
Application Number	415/D030/10
Property Address	55 Long Island Rd, Murray Bridge
Proposal	Boundary realignment.
Applicant	Waterford Estate Pty Ltd
Zone/Policy area/Precinct	Part Residential/ Part River Murray Fringe
Nature of development	Non Complying
Public notification category	1
Representations	Not applicable
Agency consultations	Department for Water, SA Water, EPA
Internal referrals	Engineering
Author	Cherry Getsom
Attachments	A. Application documents B. Referral Responses C. Internal comments
Development Plan	17 December 2009
Recommendation	Approve with Conditions subject to concurrence from DAC

Background

The proposal involves a minor boundary re-alignment of land contained within the Residential Zone of the Rural City of Murray Bridge Development Plan Consolidated 17 December 2009; the title also includes three rights of way which extend from the bulk of the land into the River Murray Fringe Zone. At the date of lodgment this application (415/D030/10) was considered hypothetical as lot 84 did not technically exist, it had been created as part of land division application 415/D056/08. Land Division 415/D056/08 had received land division consent in May 2009 but had not received Section 51 clearance. The subject application (415/D030/10) was placed on hold until clearance for 415/D056/08 was granted. Section 51 clearance has since been issued and Land Division Certificate dated 1/8/2011 has been authorized allowing assessment to continue on the subject application.

Proposal

The current application seeks to increase the size of lot 84 (renaming it to proposed lot 94) 2408m² to 3730m² and makes some minor changes to notations relating to the easements associated with the land.

Nature of Development

The majority of the subject land is contained within the Residential Zone of the Rural City of Murray Bridge Development Plan consolidated 17 December 2009. However it incorporates one 1.5m wide right of way and two easements which extend into the River Murray Fringe Zone. Land division is a non-complying form of development within the River Murray Fringe Zone.

The non-complying list within the River Murray Fringe Zone only offers exemptions for boundary realignments where the realignment results in allotments of 100 ha or more. As this exemption cannot be met by this proposal it has been considered to be non-complying form of development, albeit minor.

Schedule 9, 3 (c) of the Development Regulations 2008 allows for a development classified as non-complying to be determined as Category One for the purposes of public notification where it involves the division of land where the number of allotments resulting from the division is equal to or less than the number of existing



allotments. The proposed boundary alignment meets this criterion and so has been assessed as a Category One proposal.

Additionally, Regulation 17 (6) (c) allows for a Statement of Effect to be omitted from the non-complying assessment process in the same circumstances as identified above. So no Statement of Effect has been requested. A Statement in Support of the application has been received, pursuant to Regulation 17 (1).

Detailed Description

The proposed boundary realignment involves increasing the size of allotment 84 as contained within the north eastern corner of allotment 85 from 2408m² to 3730m². Allotment 85 is currently some 2.944ha is principally rectangular in shape and contains the eastern portion of Waterford Estate Retirement Village. The Waterford Estate Retirement Village is contained within the adjoining allotment on the western side of the subject land. The Retirement Village has expanded into lot 85 (with the appropriate approvals) and consents have recently been issued to further increase the number of dwellings on this allotment.

Allotment 84 (proposed lot 94) is located on the north eastern corner of lot 85 (proposed lot 95). The proposal involves increasing the size of this allotment so that lot 94 will extend for distance of some 95m along the north western boundary and some 35m on the north western boundary. The south western boundary travels for some 35.5 m before turning in a northerly direction following a designated road within the Retirement Village. Allotment 84 contains an existing dwelling and proposed allotment 94 will continue to include this dwelling and provide additional vacant land for this dwelling.

The northern boundary is approximately 144m from the River Murray, with the right of way extending from the north eastern corner of this boundary for a distance of approximately 75m. An easement for water supply purposes also extends from the north western corner of proposed Lot 94 for a distance of 371m til it meets Long Island Road. Approximately 171m from Long Island Rd, an easement extends at right angles for a distance of approximately 75m to the River. This is also for water supply purposes. These easements and the right of way are contained within the River Murray Fringe Zone of the Rural City of Murray Bridge Development Plan.

A copy of the proposed Land Division is contained in **APPENDIX 75.2A**.

Site/Locality

The subject land is more specifically known as Certificate of Title Volume 5931 Folios 949 to 952 and 955. There are a number of easements or endorsements noted on the title.

The subject land is principally rectangular in shape and both allotments have a combined area of 3.814ha. It contains one existing dwelling located on proposed lot 94 along with 17 existing dwellings associated with the Retirement Village within lot 95, approvals also exist for more retirement village dwellings.

The property is bounded on three sides by residential dwellings, with the western boundary being principally utilised as a Retirement Village and the southern and eastern boundaries by residential dwellings. The northern boundary faces vacant land which is bounded by Wilden Way and the associated riverfront development.

Land is relatively flat with some minor sloping and the northern most portion of the allotment falls within the 1956 floodplain area.



Figure 1 Site Plan (Exponare 2008)

Aerial site plan to show the location of the existing structures on the site

The locality to the south, east and west of the subject land is consistent with a residential area, displaying, rectangular shaped allotments containing detached dwellings and associated outbuildings. The land to the west of the site is slightly higher density as appropriate for its use as a Retirement Village. Development of land to the north is somewhat restricted by its closeness to the River Murray and the requirements associated with potential for flooding with residential development consisting of individual dwellings on slightly larger allotments leased from Council. Where practicable much of the land adjacent to the River remains open and is managed so as to avoid the potential impacts from floods.

Locality plan



Figure 2 Locality Plan (Exponare 2008)

Aerial site plan to show the subject land in relation to the broader locality

Referrals

Agency Consultation

Pursuant to Section 37 of the Development Act (1993) a referral to the Department for Water was undertaken, against the Objects of the River Murray Act 2003 and its Objectives for a Healthy River Murray. The Department for Water determined that the proposed development generally complies with the principles described above and directed a number of conditions be attached to any consent.

Council formed the opinion that pursuant to Schedule 8, 10 (a) (ii) the mandatory referral to EPA was not required as the development is within the township and the subject land is connected to SA Water Mains. It is understood that Council advised DAC of this, however an EPA referral response had been provided. This response raised no objection to the proposed boundary realignment.

DAC undertook a referral to the Department of Aboriginal Affairs and Reconciliation. This department identified that an entry for Aboriginal sites was located within the affected land parcels and provided a map. This map locates the site as well within



Proposed Allotment 94 and will not be impacted by this proposal. A note in relation to this site shall be included with any consent.

Copies of Agency referrals are contained within **APPENDIX 75.2B**.

Internal Consultation

Department/Staff	Response
Engineering	No engineering requirements

A copy of the internal referral response is contained in **APPENDIX 75.2C**.

Development Assessment

The proposal is a non-complying form of development for which a resolution to proceed to full assessment has been made. The proposal has been assessed against the relevant provisions of the Development Plan. The Development Act 1993 provides that a Planning Authority is to have regard to the relevant provisions of the Development Plan in assessing development proposals.

Whilst an assessment of the whole Development Plan has been undertaken, it is considered that the following provisions of the Development Plan are most relevant to the assessment of the application:

The key considerations of this assessment relate to the appropriateness of the proposed allotment sizes, configuration and their associated land use, provision of infrastructure and access and egress to the proposed allotments.

Accordingly the key issues are discussed in greatest detail below

Land Division / Land Use

General Section – Land Division Objective 1: Land division that occurs in an orderly sequence allowing efficient provision of new infrastructure and facilities and making optimum use of existing underutilised infrastructure and facilities

General Section – Land Division Objective 2: Land division that creates allotments appropriate for the intended use.

General Section – Land Division Objective 3: Land division layout that is optimal for energy efficient building orientation.

General Section – Land Division Objective 4: Land division that is integrated with site features, including landscape and environmental features, adjacent land uses, the existing transport network and the availability of infrastructure

General Section – Land Division PDC 2 Land should not be divided if any of the following apply:

- (a) the size, shape, location, slope or nature of the land makes any of the allotments unsuitable for the intended use***
- (b) any allotment will not have a frontage to one of the following:***
 - (i) an existing road***
 - (ii) a proposed public road***
 - (iii) access to a public road via an internal roadway in a plan of community division***
- (c) the intended use of the land is likely to require excessive cut and/or fill***
- (d) it is likely to lead to undue erosion of the subject land or land within the locality***



General Section – Land Division PDC 3: Land divisions should be designed to ensure that areas of native vegetation and wetlands:

- (a) are not fragmented or reduced in size
- (b) do not need to be cleared as a consequence of subsequent development.

General Section – Land Division PDC 8: Allotments should have an orientation, size and configuration to encourage development that:

- (a) minimises the need for earthworks and retaining walls
- (b) maintains natural drainage systems
- (c) faces abutting streets and open spaces
- (d) does not require the removal of native vegetation to facilitate that development
- (e) will not overshadow, dominate, encroach on or otherwise detrimentally affect the setting of the surrounding locality.

General Section – Orderly and Sustainable Development Objective 1: Orderly and economical development that creates a safe, convenient and pleasant environment in which to live.

General Section – Orderly and Sustainable Development Objective 3: Development that does not jeopardise the continuance of adjoining authorised land uses.

General Section – Orderly and Sustainable Development Objective 4: Development that does not prejudice the achievement of the provisions of the Development Plan.

General Section – Orderly and Sustainable Development Principles of Development Control 1: Development should not prejudice the development of a zone for its intended purpose.

Residential Zone PDC 12: A dwelling should have a minimum site area (and in the case of residential flat buildings, an average site area per dwelling and a frontage to a public road not less than that shown in the following table only if connected to a sewerage system:

Dwelling type	Site area (square metres)	Minimum frontage (metres)
Detached	500 minimum	15

River Murray Fringe Zone PDC 16: Land division should not occur unless either (a) or (b) are satisfied:

- (a) where it involves a boundary realignment resulting in allotments of 100 hectares or more in area
- (b) the creation of one additional allotment containing a habitable dwelling that existed on 6 December 1990, subject to all of the following criteria:
 - (i) the allotment does not exceed 2 hectares in area
 - (ii) there is sufficient land for a roadway to connect the allotment to the nearest existing trafficable public road
 - (iii) it is divided from an allotment contained on a separate Certificate of Title existing on 6 December 1990
 - (iv) the current Valuer General's records indicates that the dwelling exists on the property and Council records do not indicate that the use of those dwellings has changed
 - (v) the dwelling was erected initially as a dwelling (or has been approved for use as a dwelling) and has not been erected for any other purpose.



The proposed boundary realignment is considered unlikely to impact upon the existing approved land uses. Both allotments are of sufficient size and configuration to allow for residential uses and are beyond the minimums established within Residential Zone PDC 12. The proposed boundary realignment is considered to meet the requirements of General Section PDC's 2 and 8.

The proposal does not involve the removal of any native vegetation and development on either allotment will not require significant earthworks nor lead to undue erosion of the subject land, as envisioned with General Section – Land Division PDC 2 and General Section – Land Division PDC 3.

General Section – Orderly and Sustainable Development Objective 3 requires development that does not jeopardise the continuance of adjoining authorised land uses. The proposal is not considered to impact upon authorised land uses within the locality, nor is it considered likely to jeopardise the continuance of adjoining authorised land uses.

The proposed realignment does not meet the provisions of River Murray Fringe Zone PDC 16 and is listed as a non-complying form of development, however given the minor nature of the intrusions into the River Murray Fringe Zone this is not considered significant. The classification of this application as non-complying is considered to have more of an impact in terms of process rather than assessment.

For application documents please refer to **APPENDIX 75.2A**.

Provision of Infrastructure/ Suitability of site

General Section – Land Division PDC 4 The design of a land division should incorporate:

- (a) roads, thoroughfares and open space that result in safe and convenient linkages with the surrounding environment, including public and community transport facilities, and which, where necessary, facilitate the satisfactory future division of land and the inter-communication with neighbouring localities***
- (b) safe and convenient access from each allotment to an existing or proposed public road or thoroughfare***
- (c) areas to provide appropriate separation distances between potentially conflicting land uses and/or zones***
- (d) suitable land set aside for useable local open space***
- (e) public utility services within road reserves and where necessary within dedicated easements***
- (f) the preservation of significant natural, cultural or landscape features including State and local heritage places***
- (g) protection for existing vegetation and drainage lines***
- (h) where appropriate, the amalgamation of smaller allotments to ensure coordinated and efficient site development***

General Section – Land Division PDC 11 The layout of a land division should keep flood-prone land free from development.

Both proposed allotments have access to appropriate infrastructure and are of suitable size to manage any stormwater requirements necessitated by potential future development. Public utilities are available to both proposed allotments and the proposal is considerable to meet principles and objectives as they relate to the



provision of infrastructure as both allotments currently contain residential development.

No site contamination issues have been identified on the subject land and whilst a portion of the site is contained within the 1956 flood are the Department for Water have raised no objections to the proposal. The proposal does not comply with General Section PDC 11, however both existing and proposed allotment boundaries are already contained within the flood prone area and the proposed realigned with not add any additional impacts to this. Any issues associated with potential future residential land uses, ie residential dwellings will be assessed at the land use stage.

Traffic Management and Parking

Transportation & Access

General Section – Transportation and Access Objective 2: Development that:

- (a) provides safe and efficient movement for all motorised and non-motorised transport modes***
- (b) ensures access for vehicles including emergency services, public infrastructure maintenance and commercial vehicles***
- (c) provides off street parking***
- (d) is appropriately located so that it supports and makes best use of existing transport facilities and networks.***

General Section – Transportation and Access Principles of Development Control 22: Development should have direct access from an all weather public road.

General Section – Transportation and Access Principles of Development Control 29: Development should be sited and designed to provide convenient access for people with a disability

General Section – Transportation and Access Principles of Development Control 36: Parking areas should be sealed or paved in order to minimise dust and mud nuisance.

Both proposed allotments are of a suitable size to allow for off street parking for future land use applications.

Proposed allotment 95 has access available via the existing private road associated with the Waterford Estate Retirement Village. A private road, linking the two allotments already exists to provide access to the existing dwellings on the site. The approved Retirement Village masterplan includes details of access to be provided for future dwellings on the subject land.

Access for proposed allotment 94 currently exists as an unmade track which extends from Wilden Way. Whilst this is access arrangement is not to the standard normally required by Council, it forms part of the already approved access for Lot 84 (proposed Lot 94) and this application will not impact upon the access arrangements. Additionally Council Engineering staff made no comment regarding this proposed access when reviewing the proposal. The existing Right of Way (marked H on the plan of division) provides for more formalised access should it be required during any later development proposal.

Assessment Summary

The application has been assessed against the Murray Bridge Development Plan consolidated 17 December 2009.



When assessed against the relevant provisions of the Development Plan and having regard to the context of the locality and the nature of the proposed development, the application is considered appropriate in that the proposed boundary realignment is a minor variation to what was previously approved by Development Application 415/D056/08.

Both proposed allotments are of an appropriate size and configuration to provide for residential uses as prescribed within the zone. In fact residential uses have been established on both allotments and the proposed realignment will not impede on these uses. The proposal allows the applicant the opportunity to further develop allotment 94 at some later stage.

Both allotments have access to suitable infrastructure, including the road networks and public utilities.

RECOMMENDATION:

Following a detailed assessment of the proposal against the provisions of the Rural City of Murray Bridge Development Plan, consideration of referrals, advice and representations:

- A. *That pursuant to Section 35 (2) of the Development Act, 1993, the proposal is not seriously at variance with the relevant provisions of the Murray Bridge Development Plan.*
- B. *That pursuant to Section 33 of the Development Act, 1993, Development Application Number 415/D030/10 be GRANTED Development Plan Consent subject to concurrence from the Development Assessment Commission and the following conditions:*

DEVELOPMENT PLAN CONSENT CONDITIONS:

1. *That the proposal shall be developed in accordance with the details and approved plans stamped by Council except where varied by the conditions herein and shall be completed prior to the occupation of the proposed development.*

Reason: *To ensure the development proceeds in an orderly manner.*

SA WATER CONDITIONS:

2. *The financial requirements of SA Water shall be met for the provision of water supply and sewerage services*
3. *The necessary easements shall be vested to SA Water*
4. *The alteration of internal drains to the satisfaction of SA Water is required.*
5. *On approval of the application, all internal water piping that crosses the allotment boundaries must be severed or redirected at the developers/owners cost to ensure that the pipework relating to each allotment is contained within its boundaries.*



DEPARTMENT FOR WATER CONDITIONS:

6. *During any works or construction activities associated with the land division, the subject land must be managed in a manner as to prevent erosion and pollution of the site and the environment, including keeping the area in a tidy state and ensuring any waste materials are appropriately contained to ensure no pollutants (including excavation or fill material) enter the River Murray system.*

DAC CONDITION:

7. *Two copies of a certified survey plan shall be lodged for Certificate purposes.*

NOTES:

- a) *The development must be substantially commenced within 12 months of the date of this Notification, unless this period has been extended in writing by Council.*
- b) *You are also advised that any act or work authorised or required by this Notification must be completed within 3 years of the date of the Notification unless this period is extended in writing by the Council.*
- c) *You will require a fresh consent before commencing or continuing the development if you are unable to satisfy these requirements*
- d) *You have a right of appeal against the conditions which have been imposed on this Provisional Development Plan Consent or Development Approval.*
- e) *Such an appeal must be lodged at the Environment, Resources and Development Court within two months of the day on which you receive this notice or such longer time as the Court may allow.*
- f) *Please contact the Court if you wish to appeal. The Court is located in the Sir Samuel Way Building, Victoria Square, Adelaide. (Telephone number 8204 0300).*
- g) *Any works affecting Council's infrastructure, including changes to the footpath, kerbing and guttering, the planting of trees and landscaping must not occur unless prior approval has been granted by Council in the form of a permit. To obtain such a permit please contact Councils Works Department*
- h) *The approval for this development does NOT imply approval to alter, shift or remove any street tree, side entry pit, stobie pole, bus stop, fire hydrant or other gas, electricity, water, telecommunications or other similar infrastructure. Approval to alter any of these or similar infrastructure needs to be obtained from the relevant government department, private organisation or Council. Any costs associated with such alteration are the responsibility of the applicant.*
- i) *The applicant is advised to seek information from 'Dial before you dig' to ensure that no services will be affected prior to commencing work*



- j) *Department for Water Notes: The applicant is advised of their general duty of care to take all reasonable measures to prevent any harm to the River Murray through his or her actions or activities*
- k) *The River Murray and many of its tributaries and overflow areas have abundant evidence of Aboriginal occupation and Aboriginal sites, objects or artefacts may be present on the subject land (eg. scarred trees, campsites, burial sites, middens, etc). Under section 20 of the Aboriginal Heritage Act 1988 (the Act), an owner or occupier of private land, or an employee or agent of such an owner or occupier, must report the discovery on the land of any Aboriginal sites, objects and remains to the Minister responsible for the administration of the Act, as soon as practicable, giving the particulars of the nature and location of the Aboriginal sites, objects or remains. It is an offence to damage, disturb or interfere with any Aboriginal site or damage any Aboriginal object (registered or not) without the authority of the Minister for Aboriginal Affairs and Reconciliation (the Minister). If the planned activity is likely to damage, disturb or interfere with a site or object, authorisation of the activity must be first obtained from the Minister under Section 23 of the Act. Penalties may apply for failure to comply with the Act.*
- l) *The applicant is advised that there are Aboriginal archaeological sites located on the subject land. The applicant should consult with the relevant Aboriginal organisation prior to the commencement of any works associated with the land division:
Ngarrindjeri Heritage Committee*
- Chairperson: Mr Tom Trevorrow
Mail: PO Box 126
Meningie SA 5264
Telephone: (08) 8575 1557
Fax: (08) 8575 1448*
- m) *The applicant is advised that any proposal to clear native vegetation on the land at any time, the applicant should consult the Native Vegetation Council to determine whether the proposed clearance requires formal approval under the Native Vegetation Act 1991 and its Regulations. Note that "clearance" means any activity that could cause any substantial damage to native plants, including cutting down and removing plants, burning, poisoning, slashing of understorey, trimming or removal of branches, severing roots, drainage and reclamation of wetlands, and in some circumstances grazing by animals. For further information contact the Native Vegetation Council on telephone 8303 9741 or visit: <http://www.nvc.sa.gov.au>.*
- n) *The applicant is encouraged to incorporate locally indigenous plant species into any landscaping, screen planting or revegetation activities at the site to enhance the natural character of the locality, stabilise soils and provide habitat for native species. For information on appropriate species to be planted, please contact State Flora at Bremer Road, Murray Bridge on telephone 8539 2105, or within Belair National Park on telephone 8278 7777 or visit: <http://www.stateflora.com.au>.*
- o) *Any fencing required to identify allotment boundaries should avoid the unnecessary removal of native vegetation and disturbance of soil, to minimise the risk of soil erosion and subsequent impacts on water quality through increases in siltation, nutrient loading and turbidity.*



- p) Best practice Water Sensitive Urban Design (WSUD) guidance can be achieved by compliance with the Department of Planning and Local Government WSUD Technical Manual
<http://www.planning.sa.gov.au/go/wsud> Fact sheets and full copies of the manual are available at this website.
- q) Consideration should be given to water sensitive urban design features at the allotment scale, in particular;
Driveway and paved areas to use porous pavements and runoff being diverted to infiltration zones or vegetation bio-retention swales.
Water efficient landscaping
- r) The development site should be established as part of the KESAB clean site program; <http://www.kesab.asn.au>
- s) Guidance on pollution prevention from construction sites can be found in the 'Handbook for pollution avoidance on commercial and residential building sites' and the "Stormwater pollution prevention code of practise". These documents are available at http://www.epa.sa.gov/pdfs/building_sites.pdf



76. EXECUTIVE OFFICER'S REPORT

77. CORRESPONDENCE

78. FUTURE APPLICATIONS

79. GENERAL BUSINESS

80. NEXT MEETING

The next meeting of the Development Assessment Panel is to be confirmed at the meeting.

CLOSURE